

19038 Ender

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-202275

DATE: August 5, 1981

MATTER OF: Security Assistance Forces and
Equipment OHG

DIGEST:

1. Where security regulations define heavy duty cross-cut shredder only as one being equipped with 1.5 horsepower motor or larger, fact that acceptable shredder is dimensionally similar to and may be marketed as standard office-type shredder does not disqualify it as heavy duty.
2. Where agency establishes prima facie support for its contention that specification is reasonably related to its needs, burden of proof lies with protester to show Government's insistence on them is clearly unreasonable.

Security Assistance Forces and Equipment OHG (SAFE) protests the award of a contract for shredders to C. Klippel under request for proposals (RFP) DAJA37-81-R-0302 issued by the U.S. Army Contracting Agency, Europe (USACAE). SAFE alleges that the shredder model selected for award does not comply with the applicable regulations and that the specifications were excessively restrictive and resulted in a sole source procurement. For the reasons discussed below, this protest is denied.

The RFP was issued on February 6, 1981, for 51 Class I crosscut shredders capable of destroying top secret material. The shredders were required by the 5th Signal Command, a telecommunications unit, for the destruction of various items, including magnetic tape. The solicitation was sent to eight potential offerors and five offers were received. Four offers were submitted for technical review and only the INTIMUS 007 offered by C. Klippel was found to be technically acceptable.

[Protest Alleging Restrictive Specifications]

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SAFE alleges that the shredder model selected for award, INTIMUS 007, does not satisfy the requirements of Army Regulation (AR) 380-5. SAFE notes that AR 380-5 only permits the shredding of magnetic tape with a heavy duty (1.5 horsepower or larger) crosscut security shredder but not with a standard office-type Class I or II shredder. SAFE acknowledges that the INTIMUS model has a 1.5 kilowatt motor (approximately 2 horsepower) but it maintains that all of the other elements of the INTIMUS are those found in a standard office-type model and therefore asserts that it is only a standard office-type model. SAFE contends that the Security Engineered Machinery Corporation (SEM) Model 700, the model proposed by SAFE Export Corp., is a heavy duty shredder able, and authorized, to destroy magnetic tape. We do not agree.

Throughout the voluminous correspondence submitted by SAFE during the course of this protest it has continued to maintain that the INTIMUS model 007 is not a heavy duty shredder. It has offered no evidence to support its assertion; it has instead merely stated that the INTIMUS machine is marketed as a standard office-type shredder.

AR 380-5 defines a heavy duty cross-cut shredder as one being equipped with a 1.5 horsepower or larger motor. It does not define "heavy duty" by dimension, weight or any other physical or mechanical characteristic. Nonetheless, while SAFE asserts its equipment is acceptable and that the INTIMUS is not, both machines have roughly similar dimensions, i.e., 44 1/2 inches x 21 inches x 23 inches for the SEM machine offered by SAFE, and 42.9 inches x 26.3 inches x 42.9 inches for the INTIMUS machine. The SEM weighs 275 pounds versus the 299.2 pounds for the INTIMUS. The SEM model however does not have a 1.5 horsepower or larger motor; the INTIMUS does. By definition therefore the INTIMUS is a heavy-duty machine; the SEM is not.

SAFE also alleges that the specifications are restrictive in that only one manufacturer in Europe produces a shredder meeting the solicitation's requirements for dimensions, input feed and working width and drive motor horsepower. SAFE states that a number of firms

offer a product which would satisfy the required type of end product but that the specifications effectively limit the offer to only one firm. It contends that the SEM model is qualified for the required use and is capable of the same volume performance as the INTIMUS model.

The agency responds that the award was solicited competitively and it was not aware that there was only one source for the shredders. It states that the specifications were essential to the minimum needs of the Government and were not intended to specify a particular model. The specifications were intended to describe a machine the size or capacity necessary to meet the type and volume of destruction needs of the 5th Signal Command, while remaining consistent with the security requirements of AR 380-5.

The specifications here satisfied that requirement. Although SAFE has contended that the SEM model is capable of satisfying the Government's needs, the model has only a one-half horsepower motor, which does not even meet the minimum requirements established by AR 380-5. Moreover, aside from its mere allegation that the INTIMUS model is the only equipment which meets the specification requirements "on the European market" it has offered no evidence to support this assertion. In any event, we are not aware of the relevance of the limitations of the European marketplace to the question of restrictive specifications.

Once an agency, as here, has established prima facie support for its contention that the specifications which the protester challenges are reasonably related to its needs, the burden of proof lies with the protester to show that the Government's insistence upon them is clearly unreasonable. Security Assistance Forces & Equipment International, B-199757, November 19, 1980, 80-2 CPD 383.

On the basis of the record before us, we conclude that SAFE has not met its burden of showing that the specifications are restrictive.

The protest is denied.


Acting Comptroller General
of the United States